

DECISION-MAKER:	LICENSING (GENERAL) SUB - COMMITTEE		
SUBJECT:	APPLICATION FOR RENEWAL OF A SEXUAL ENTERTAINMENT VENUE (SEV) LICENCE – FOR BLACK DIAMOND, BASEMENT, 35 LONDON ROAD, SOUTHAMPTON. SO15 2AD.		
DATE OF DECISION:	MONDAY 12th OCTOBER 2020 – 1000 HOURS		
REPORT OF:	SERVICE DIRECTOR – COMMUNITIES, CULTURE AND HOMES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY		
N/A		
BRIEF SUMMARY		
<p>The Licensing (General) Sub-Committee is requested to determine the application for the renewal of a Sexual Entertainment Venue (SEV) Licence from Southampton Clubs Limited in respect of Black Diamond, Basement, 35 London Road, Southampton, SO15 2AD. This matter has been slightly delayed due to Covid 19, however the premises is not been trading at this time.</p>		
RECOMMENDATIONS:		
1.	(i)	For the Sub-Committee to consider and determine the application for the renewal of the Sexual Entertainment licence in respect of Basement, 35 London Road, Southampton, SO15 2AD.
REASONS FOR REPORT RECOMMENDATIONS		
2.	The determination of applications for renewal of sexual entertainment licences is not delegated to officers if representation is received, therefore it is for the sub-committee to consider and determine the application.	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
3.	None	
DETAIL (Including consultation carried out)		
4.	The Council originally adopted Schedule 3 of the 1982 Act in so far as they related to sex shops and sex cinemas in 1983 and readopted them with effect from 3 rd July 1995.	
5.	The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 with effect from 6 th April 2010, by introducing a new category of sex establishment called Sexual entertainment	

	venues (SEVs) enabling local licensing authorities to adopt provisions for the regulation of lap dancing clubs and similar venues under Schedule 3 of the 1982 Act. Previously the power was limited to sex shops and sex cinemas. On 11th July 2012, Council resolved to adopt the provisions of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 which relate to the licensing of SEVs.
6.	Southampton Clubs Limited has held a sexual entertainment venue (SEV) licence in Southampton since 28 th August 2019 following a new application issued by the sub - committee, with the licence to be renewed annually. As of 16 th July 2020, Southampton Clubs Limited operate another Sexual Entertainment Venue in Reading.
7.	On 16 th July 2020 an application was made by Southampton Clubs Limited to renew the Sexual Entertainment Venue licence in respect of Basement, 35 London Road, Southampton, SO15 2AD. A copy of the application is attached as Appendix 1 .
8.	In summary, this application is to renew the Sexual Entertainment Venue licence. The Licence Holder has not been trading at the premises as yet. A copy of the current SEV licence is attached as Appendix 2 .
9.	A notice was displayed at the premises throughout the consultation period. A notice was also published in a local newspaper. A copy of the application was served on Hampshire Constabulary Force Licensing Team.
10.	The Hampshire Constabulary Force Licensing Team have not responded to this application.
11.	The Sex Establishment licence held by Southampton Clubs Limited is renewed annually. The current licence expired on the 28 th August 2020. The new application had been granted following one representation to the application in 2019. A copy of the decision notice is attached as Appendix 3 .
12.	Licences are granted for a period of no more than one year, but may be cancelled at the request of the licence holder or revoked by the licensing authority at any time.
13.	The authority may; <ul style="list-style-type: none"> • Grant the application; or • Make such variations as they think fit; or • Refuse the application.
14.	Any person objecting to an application for the renewal of a Sexual Entertainment Venue (SEV) licence is required to give notice of their objection in writing to the local authority, not later than 28 days after the date of the application. One public objection was received in relation to this application within the 28 day consultation period. This is attached as Appendix 4 .
15.	The Act does not provide objectors with an explicit provision to be heard in person by the Sub-Committee. However, those persons from whom valid objections have been received have been advised of the date and time of the meeting and have also been advised that they may only address the meeting at the invitation of the Sub-Committee.
16.	A licence must not be granted: <p>(a) to a person under the age of 18;</p>

	<p>(b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;</p> <p>(c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or</p> <p>(d) to a body corporate which is not incorporated in an EEA State; or</p> <p>(e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.</p>
17.	<p>A licence may be refused by the Sub-Committee where:</p> <p>(a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;</p> <p>(b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;</p> <p>(c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;</p> <p>(d) that the grant or renewal of the licence would be inappropriate, having regard—</p> <ul style="list-style-type: none"> (i) to the character of the relevant locality; or (ii) to the use to which any premises in the vicinity are put; or (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
18.	<p>A decision to refuse a licence must be relevant to one or more of the above grounds.</p>
19.	<p>It is considered advisable to merely deal with this application on its merits and not to embark on an additional exercise of determining a precise “relevant locality” and an appropriate number of establishments in it. Such an exercise is only recommended if after having regard to the area generally if it is felt that the number and / or proximity of premises may be inappropriate.</p>
20.	<p>SEV licences can be granted for a maximum of one year, or for such shorter periods specified in the licence as the Sub-Committee may think fit.</p>
21.	<p>If the Sub-Committee determines to grant a licence it has power to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual premises concerned or standard conditions applicable to all sex establishments, or particular types of sex establishments.</p>

	<p>Examples of the matters that standard conditions may address can include, but are not restricted to:</p> <ul style="list-style-type: none"> • The hours of opening and closing • Displays and advertisements on or in sex establishments • The visibility of the interior of a sex establishment to passers-by • Any change of use from one kind of sex establishment to another. <p>If such standard conditions are introduced by the local authority, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.</p>
22.	<p>Guidance issued by the Home Office (a copy of which is attached as Appendix 5) states;</p> <ul style="list-style-type: none"> • In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards. • In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted. <p>Where a local authority decides to grant a sex establishment licence to an existing operator, who is subject to conditions on their existing premises licence or club premises certificate that relate expressly to the provision of relevant entertainment, they may wish to replicate the existing conditions on the new sex establishment licence if they believe that the existing conditions are sufficient. However, they could equally decide to impose new conditions consistent with Schedule 3 if they believe that new or additional conditions are necessary.</p>
23.	A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as Appendix 6 .
24.	A copy of the Sex Establishment Licensing Policy is attached as Appendix 7 .
25.	A copy of Current Licensing Act 2003 premises licence is attached as Appendix 8 .
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
26.	There are no financial implications.
<u>Property/Other</u>	
27.	Not applicable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
28.	<p>Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.</p> <p>A licence must not be granted:</p> <p>(a) to a person under the age of 18;</p>

	<p>(b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;</p> <p>(c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or</p> <p>(d) to a body corporate which is not incorporated in an EEA State; or</p> <p>(e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.</p>
29.	<p>If the Sub-Committee determines to grant a renewal application, it has power to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual premises concerned or standard conditions applicable to all sex establishments, or particular types of sex establishments.</p> <p>Examples of the matters that standard conditions may address can include, but are not restricted to:</p> <ul style="list-style-type: none"> • The hours of opening and closing • Displays and advertisements on or in sex establishments • The visibility of the interior of a sex establishment to passers-by • Any change of use from one kind of sex establishment to another. <p>If such standard conditions are introduced by the local authority, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.</p>
<u>Other Legal Implications:</u>	
30.	<p>CRIME AND DISORDER ACT 1998</p> <p>Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.</p>
31.	<p>HUMAN RIGHTS ACT 1998</p> <p>The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.</p>
32.	<p>EQUALITY ACT 2010</p> <p>Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. It also requires the Council to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This means having due regard to the need to removing or</p>

	minimising disadvantages suffered, taking steps to meet the needs of persons, encouraging persons to participate in public life, tackling prejudice and promoting understanding. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.
33.	RISK MANAGEMENT IMPLICATIONS The risk is assessed as low. There are no finance or service delivery implications. Failure to implement the appropriate conditions could impact on reputational damage.
POLICY FRAMEWORK IMPLICATIONS	
34.	The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	N/A
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Application for the renewal of SEV licence made in respect of Black Diamond, Basement, 35 London Road, Southampton. SO15 2AD.
2.	A copy of the current Sexual Entertainment licence.
3.	A copy of the decision notice of new application hearing 28/08/2019
4.	Public representation
5.	Home Office Guidance
6.	Procedure for hearing the application.
7.	Sex Establishment Licensing Policy
8.	Current Licensing Act 2003 premises licence
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
Privacy Impact Assessment	
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?	No
Other Background Documents	
Equality Impact Assessment and Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule

		12A allowing document to be Exempt/Confidential (if applicable)
1.	None	